

Rules of Trial Procedure

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Rule 76. Change of venue

- (A) ~~In civil actions where the~~ Where venue may be changed from the county, such change of venue from the county may be had only upon the filing of a verified motion specifically stating the grounds therefor by the party requesting the change. The motion shall be granted only upon a showing that the county where suit is pending is a party or that the party seeking the change will be unlikely to receive a fair trial on account of local prejudice or bias regarding a party or the claim or defense presented by a party. A party shall be entitled to only one change of venue from the county. Denial of a motion for change of venue from the county shall be reviewable only for an abuse of discretion. The Rules of Criminal Procedure shall govern proceedings to enforce a statute defining an infraction.
- (B) ~~In civil actions, where a change may be taken from the judge, Regardless of the number of parties, each side shall be entitled to only one change of judge without cause. such~~ Such change shall be granted upon the filing of ~~an unverified application or a~~ motion without specifically stating the grounds for the motion ~~therefor by a party or his attorney. Provided, however, a party shall be entitled to only one [1] change from the judge.~~ After a final decree is entered in a dissolution of marriage case or paternity case, a party may take only one change of judge in connection with petitions to modify that decree, regardless of the number of times new petitions are filed. The Rules of Criminal Procedure shall govern proceedings to enforce a statute defining an infraction.

(C) In any action except criminal no change of judge or change of venue from the county shall be granted except within the time herein provided. Any such application for change of judge (or change of venue) shall be filed ~~not later than ten (10) days after the issues are first closed on the merits.~~ by the earlier of:

thirty (30) days after the issues are first closed on the merits,

or

fifteen [15] days after the filing of a motion pursuant to Rule 12, or 56,

or

fifteen [15] days after service of a motion under Rule 65(A), or before the commencement of a hearing on a motion filed pursuant to Rule 65(A), whichever is earlier. This rule does not affect jurisdiction retained pursuant to Rule 79(O),

or

fifteen [15] days after all originally named defendants appear.

Except:

- (1) in those cases where no pleading or answer may be required to be filed by the defending party to close issues (or no responsive pleading is required under a statute), each party shall have thirty [30] days from the date the case is placed and entered on the chronological case summary of the court as having been filed;
- (2) in those cases of claims in probate and receivership proceedings and remonstrances and similar matters, the parties thereto shall have thirty [30] days from the date the

case is placed and entered on the chronological case summary of the court as having been filed;

- (3) if the trial court or a court on appeal orders a new trial, or if a court on appeal otherwise remands a case such that a further hearing and receipt of evidence are required to reconsider all or some of the issues heard during the earlier trial, the parties thereto shall have ten [10] days from the date the order of the trial court is entered or the order of the court on appeal is certified;
- (4) in the event a change is granted from the judge or county within the prescribed period, as stated above, a request for a change of judge or county may be made by a party still entitled thereto within ten [10] days after the special judge has qualified or the moving party has knowledge the cause has reached the receiving county or there has been a failure to perfect the change. Provided, however, this subdivision (4) shall operate only to enlarge the time allowed for such request under such circumstances, and it shall not operate to reduce the period prescribed in subdivisions (C), (C)(1), (C)(2), (C)(3);
- (5) where a party has appeared at or received advance notice of a hearing prior to the expiration of the date within which a party may ask for a change of judge or county, and also where at said hearing a trial date is set which setting is promptly entered on the Chronological Case Summary, a party shall be deemed to have waived a request for change of judge or county unless within three days of the oral setting the party files a written objection to the trial setting and a written motion for change of judge or county;

(6) if the moving party first obtains knowledge of the grounds for change of venue from the county or judge after the time above limited, he may file said application, which must be verified personally by the party himself, specifically alleging when the cause was first discovered, how discovered, the facts showing the grounds for a change, and why such cause could not have been discovered before by the exercise of due diligence. Any opposing party shall have the right to file counter-affidavits on such issue within ten [10] days, and the ruling of the court may be reviewed only for abuse of discretion.

(D) The filing of a motion to change venue or to change judge pursuant to this Rule shall not constitute a waiver of any defense properly and timely made by responsive pleading or by motion.

(E) Whenever a change of venue from the county is granted, the parties may, within three (3) days from the granting of the motion or affidavit for the change of venue, agree in open court upon the county to which venue shall be changed, and the court shall transfer such action to such county. In the absence of such agreement, the court shall, within two (2) days thereafter, submit to the parties a written list of all counties adjoining the county from which the venue is changed, and the parties within seven (7) days from the date the clerk mails the list to the parties or within such time, not to exceed fourteen (14) days from that date, as the court shall fix, shall each alternately strike off the names of such counties. The party first filing such motion shall strike first, and the action shall be sent to the county remaining not stricken under such procedure. If a party is brought into the action as provided in Trial Rule 14, and that party thereafter files a motion for change of venue which is granted, that party and the

plaintiff shall be the parties entitled to strike. A moving party that fails to strike within said time shall not be entitled to a change of venue, and the court shall resume jurisdiction of the cause. If a nonmoving party fails to strike within the time limit, the clerk shall strike for such party.